

UNITED STATES BANKRUPTCY COURT

DISTRICT OF HAWAII

In re)	Case No. 97-03746
)	Chapter 11
UPLAND PARTNERS, a Hawaii)	
limited partnership,)	Re: Docket No. 3035, 3086
)	
Debtor.)	
_____)	

**MEMORANDUM DECISION REGARDING
MOTION TO AMEND ORDER ALLOWING
COMPENSATION TO TRUSTEE'S SPECIAL COUNSEL**

On December 15, 2004, the court entered findings of fact and conclusions of law (docket no. 3076) and an order (docket no. 3077, the "Second Fee Order") allowing compensation and reimbursement to Kessner Duca Umebayashi Bain & Matsunaga ("Kessner Duca"). On December 23, 2004, William S. Ellis, Jr., who contends that he is a party in interest, filed a Motion To Amend Findings, Conclusions, and Judgment Entered December 15, 2004, re Duca Fees and Costs (docket no. 3086). Kessner Duca has objected to the motion (docket no. 3090).

Kessner Duca points out that the firm properly served the proposed findings, conclusions, and order on Mr. Ellis and that Mr. Ellis did not object or respond. Kessner Duca argues that Mr. Ellis is therefore precluded from objecting at this time. This is another instance in which Mr. Ellis has chosen a course of

action which maximizes the expense and delay incurred by his opponents. I am reluctant to conclude, however, that the failure to participate in a procedure established by local rule to settle the form of an order precludes a party from seeking relief under the national rules governing post-judgment relief. Therefore, I will address the motion on the merits.

Having reviewed the motion and re-reviewed the record, I remain convinced that the Second Fee Application should be approved as filed. Therefore, I will not amend the Second Fee Order. In order to amplify my reasons for doing so and to respond to the specific objections in Mr. Ellis' motion, however, I will enter amended findings of fact and conclusions of law and a separate order granting Mr. Ellis' motion in part and denying it in part.

DATED: Honolulu, Hawaii, January 13, 2005.



/s/ Robert J. Faris
United States Bankruptcy Judge